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**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1H 2007 712

Veronica Dawn Souza  
627 W. Lassen Court  
Tulare, CA 93274

**A C C U S A T I O N**

RCP License no. 21335

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about February 18, 2000, the Respiratory Care Board issued Respiratory Care Practitioner License Number 21335 to Veronica Dawn Souza (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2009, unless renewed.

JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

1                   4.       Section 3710 of the Code states: “The Respiratory Care Board of  
2 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter  
3 8.3, the Respiratory Care Practice Act].”

4                   5.       Section 3718 of the Code states: “The board shall issue, deny, suspend,  
5 and revoke licenses to practice respiratory care as provided in this chapter.”

6                   6.       Section 3750 of the Code states:

7                   “The board may order the denial, suspension or revocation of, or the imposition of  
8 probationary conditions upon, a license issued under this chapter, for any of the following  
9 causes:

10                  “(d) Conviction of a crime that substantially relates to the qualifications,  
11 functions, or duties of a respiratory care practitioner. The record of conviction or a  
12 certified copy thereof shall be conclusive evidence of the conviction.

13                  “(g) Conviction of a violation of any of the provisions of this chapter or of any  
14 provision of Division 2 (commencing with Section 500), or violating, or attempting to  
15 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to  
16 violate any provision or term of this chapter or of any provision of Division 2  
17 (commencing with Section 500).

18                  7.       Section 3752 of the Code states:

19                  “A plea or verdict of guilty or a conviction following a plea of nolo contendere  
20 made to a charge of any offense which substantially relates to the qualifications,  
21 functions, or duties of a respiratory care practitioner is deemed to be a conviction within  
22 the meaning of this article. The board shall order the license suspended or revoked, or  
23 may decline to issue a license, when the time for appeal has elapsed, or the judgment of  
24 conviction has been affirmed on appeal or when an order granting probation is made  
25 suspending the imposition of sentence, irrespective of a subsequent order under Section  
26 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to  
27 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
28 accusation, information, or indictment.”

8. California Code of Regulations, title 16, section 1399.370, states:

“For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

“(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of the Act.

“(c) Conviction of a crime involving driving under the influence or reckless driving while under the influence.”

## COST RECOVERY

9. Section 3753.5, subdivision (a) of the Code states:

"In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case."

10. Section 3753.7 of the Code states:

"For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees."

11. Section 3753.1 of the Code states:

"(a) An administrative disciplinary decision imposing terms of probation may include, among other things, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation. "

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1 FIRST CAUSE FOR DISCIPLINE

2 (Conviction)

3 12. Respondent is subject to disciplinary action under code sections 3750(d),  
4 3750(g), 3752 and CCR 1399.370(a) and (c) [substantially related conviction] in that in 2006,  
5 she was convicted of violating Vehicle Code section 23152(b) [driving with .08% or more blood  
6 alcohol content.]

7 13. On November 21, 2007, Respondent completed and signed a license  
8 renewal application under penalty of perjury. She admitted that she had a conviction since her  
9 last license renewal. The circumstances are as follows:

10 14. On or about April 22, 2006, at approximately 10:39 p.m., Fresno Police  
11 Officer Blessing stopped respondent during a driving under the influence (DUI) checkpoint.  
12 Respondent was seated in the driver's seat, and as Officer Blessing spoke to her, he detected the  
13 odor of alcohol on her breath and from the vehicle. He observed that her eyes were watery. He  
14 asked if she had anything alcoholic to drink earlier that evening, and she answered that earlier in  
15 the evening, she drank "a Midori sour and 2 Smirnoff drinks." Respondent was chewing gum  
16 and he asked her to take the gum out of her mouth. Officer Blessing conducted field sobriety  
17 tests on respondent, and she failed to perform in a satisfactory manner. He asked her to perform  
18 a preliminary alcohol screening (P.A.S.) test, and her test results indicated an alcohol level of  
19 .13%. Based on her performance on the field sobriety test, the P.A.S. results, and her objective  
20 symptoms, Officer Blessing arrested respondent for a violation of Vehicle Code section 23152(a)  
21 [driving under the influence of alcohol] and Vehicle Code section 23152(b) [driving with .08%  
22 or more blood alcohol content.] On April 22, 2006, Respondent chose to take a breath test, and  
23 her test results indicated an alcohol level of .15% at 11:04 p.m. and .14% at 11:07 p.m.

24 15. On or about May 23, 2006, a misdemeanor complaint titled *People of the*  
25 *State of California vs. Veronica Dawn Souza*, case no. T06904532-9 was filed in Fresno County  
26 Superior Court. Count 1 of the complaint charged Respondent with a misdemeanor violation of  
27 Vehicle Code section 23152(b) [driving with .08% or more blood alcohol content] with an  
28 allegation per Vehicle Code section 23540 that within ten years prior to this offense, she had a

1 prior Vehicle Code section 23152(b) conviction on June 3, 2003.

2           16.     Count 2 charged Respondent with a misdemeanor violation of Vehicle  
3 Code section 23152(a) [driving under the influence of alcohol.] Count 2 contained an allegation  
4 that per Vehicle Code section 23540, within ten years prior to this offense, she had a prior  
5 Vehicle Code section 23152(b) conviction on June 3, 2003.

6           17.     On or about June 21, 2006, Respondent was convicted on her plea of  
7 guilty to Count 1, and the Court dismissed Count 2. Respondent was sentenced to 3 years  
8 summary probation, ordered to serve 45 days in county jail stayed except for 20 days. She was  
9 ordered to pay fines, enroll and complete a Driving Under the Influence (DUI) program, and  
10 standard DUI terms of probation.

11           18.     Therefore, Respondent is subject to disciplinary action under code sections  
12 3750(d), 3750(g), 3752 and CCR 1399.370(a) and (c) [substantially related conviction] in that in  
13 2006, she was convicted of violating Vehicle Code section 23152(b) [driving with .08% or more  
14 blood alcohol content.]

#### 15                                   EVIDENCE IN AGGRAVATION

16           19.     On or about December 30, 2003, the Board issued Citation and Fine No.  
17 C-03-0027 based on respondent's violation of code sections 3750(d) and (g), and CCR  
18 1399.370(a) and (c) as she was convicted upon her plea of nolo contendere to violating Vehicle  
19 Code section 23152(b).

#### 20                                   PRAYER

21           WHEREFORE, Complainant requests that a hearing be held on the matters herein  
22 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

23           1.     Revoking or suspending Respiratory Care Practitioner License Number  
24 21335, issued to Veronica Dawn Souza.

25           2.     Ordering Veronica Dawn Souza to pay the Respiratory Care Board the  
26 costs of the investigation and enforcement of this case, and if placed on probation, the costs of  
27 probation monitoring;

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3. Taking such other and further action as deemed necessary and proper.

DATED: January 28, 2009

Original signed by: \_\_\_\_\_  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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